

REMARKS/ARGUMENTS

Claims 1-9 are present in this application. By this Amendment, the Abstract of the Disclosure, the specification and claims 1-9 have been amended. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Claims 1 and 2 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,954,677 to Albrecht et al. This rejection is respectfully traversed.

Initially, although the grounds of rejection reference the Albrecht '677 patent, the discussion of the rejection refers to U.S. Patent No. 1,072,369 to Spahn. In view of this ambiguity, Applicants respectfully submit that the rejection is improper *per se*, and withdrawal of the rejection is requested.

Moreover, a characteristic feature of the claimed invention resides in the fact that a spring force does not operate between the thigh bar and the lower-leg bar, but rather operates between the two bar arms that extend from the area of the knee joint in distal direction beside the lower leg and which bar arms are coupled to the lower-leg fixation device (cuff) at different positions and due to their different lengths. Thus, a rotational moment is exerted to the fixation device (cuff) which urges the tibia in the area of the knee joint in ventral and dorsal directions, respectively. Both bar arms, however, namely the shorter bar arm 9 and the longer bar arm 10 can be freely pivoted relative to the thigh bar, i.e., no spring force acts between the thigh bar and the two lower bar arms. Therefore, the patient can bend and straighten his knee without additional expenditure of energy.

Neither Albrecht, which is owned by the same assignee as the present invention, nor Spahn describes structure that applies a ventrally or dorsally directed translatory force onto a lower leg; rather, the structures provide a pivoting force in extension and flexion direction. In

particular, Albrecht describe a device for the reduction of a deficit in extension or bending of a distal member of the body in relation to a proximal member. In contrast to the claimed invention, the known device does not exert a ventrally or dorsally directed translatory force onto the lower leg, but rather urges the lower leg relative to the thigh in flexion and extension directions in order to support bending or straightening the lower leg relative to the thigh by means of a spring force. It is this very result, however, that the subject matter of the claimed invention intends to prevent.

Moreover, in contrast with the features defined in claim 1, those of ordinary skill in the art would not reference short elements 12a, 12b in Albrecht as “bar arms” since these elements 12a, 12b are nothing but angle adjustment elements that can be secured to bar arm 1 in different rotational positions. Albrecht further differs in that the known bar arm 1 is not able to freely swivel together with the angle adjustment elements 12a, 12b relative to the thigh bar because, as noted, a spring acts between the thigh bar 2 and lower-leg bar 1 (the spring is designated with reference number 37 in Fig. 7).

Albrecht further lacks the feature of claim 1 in that the known angle adjustment elements 12a, 12b are not coupled at their distal end to a fixation device that would correspond to the fixation device 12, i.e., to the cuff of the lower leg, but are directly fixed at their distal end on the lower-leg bar 1. Still further, the biasing force of the spring means 34 in Albrecht does not act between the shorter and longer bar arms, i.e., between the angle adjustment means 12a, 12b and bar arm 1, but between the thigh bar arm 2 and the lower-leg bar arm 1.

Applicants thus respectfully submit that the rejection over the Albrecht patent is misplaced.

With regard to the Spahn reference, similar distinctions exist between Spahn and the claimed invention. Like the Albrecht patent, Spahn does not apply a ventrally or dorsally directed translatory force onto a lower leg in the area of a knee joint; rather, by means of springs 14, 15, a pivoting force is applied in extension and flexion directions (see lines 98-100). Therefore, Spahn lacks the important feature of the invention defined in claim 1 as discussed above.

Moreover, Spahn shows a longer lower-leg bar arm 5 and two shorter bar arms 17, 20, where the shorter bar arm 17 is pivotably connected to the longer bar arm 5 by means of a pivot axis 16, and the other shorter bar arm 20 is pivotably connected to the shorter bar arm 17 by means of a pivot axis 19. In the Spahn patent, the fixation device that can be secured on the lower leg is designated with reference numeral 24. However, neither shorter bar arm 17 nor shorter bar arm 20 is coupled at its distal end to fixation device 24 in an area close to the knee (as defined in claim 1), nor is the longer bar arm 5 coupled with its distal end to the fixation device 24, but rather to yoke or frame 6. Still further, in contrast with the claimed invention, there is no ventrally or dorsally directed translatory force that is applied to the Spahn fixation device 24.

For at least these reasons, Applicants submit that the rejection over the Spahn patent is also misplaced.

With regard to dependent claim 2, Applicants submit that this claim is allowable at least by virtue of its dependency on an allowable independent claim.

Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 3-5, 8 and 9 were rejected under 35 U.S.C. §103(a) over Spahn in view of U.S. Patent No. 5,063,917 to Young et al. The Young patent, however, does not correct the deficiencies noted above with regard to Spahn. That is, neither Spahn nor Young provides any

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teaching or suggestion to modify the Spahn patent to incorporate those features of independent claim 1 noted above as lacking. As such, Applicants submit that these dependent claims are allowable at least by virtue of their dependency on an allowable independent claim. Withdrawal of the rejection is respectfully requested.

Applicants acknowledge with appreciation the indication of allowable subject matter in claims 6 and 7.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims are patentable over the art of record and that the application is in condition for allowance. Should the Examiner believe that anything further is desirable in order to place the application in condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Prompt passage to issuance is earnestly solicited.

Respectfully submitted,

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